IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 17711 of 2006(H)

OP.2348/2005 of FAMILY COURT, NEDUMANGAD
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PETITIONER:

SYAMALADEVI,
W/O. LATE BHASKARA PILLAI,
"SYAMALAMANDIRAM", PARIPPALLY E.S.J. JUNCTION,
KOLLAM.

BY ADV. SRI.GOVIND K.BHARATHAN
SRI.MANU MOHAN
SRI.M.S.SARUN KUMAR

RESPONDENTS:

1. SARALA DEVI, D/O.SARAMMA,
VATTAVILAKATHU VEEDU,
KRISHNAGIRI,KODUMON, CHITTATTINKARA DESOM,
ATTINGAL.

2. ANOOP, VATTAVILAKATHU VEEDU,
KRISHNAGIRI, KODUMON, CHITTATTINKARA DESOM ,
ATTINGAL.

3. GOVERNMENT OF KERALA, REPRESENTED BY
CHIEF SECRETARY, THIRUVANANTHAPURAM.

4. THE SUB TREASURY OFFICER, PARAVOOR.

BY ADV. SRI.M.R.RAJESH
SRI.PRADEEP.V.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: PHOTOCOPY OF THE MARRIAGE CERTIFICATE DATED 06.12.2005 ISSUED BY THE N.S.S KARAYOGAM, CHIRAKKARATHAZHAM, CHIRAKKARA.

EXT.P2: PHOTOCOPY OF THE MARRIAGE CERTIFICATE OF THE PETITIONER.

EXT.P3: PHOTOCOPY OF THE DEED REGISTERED WITH THE SUB REGISTRAR'S OFFICE, ATTINGAL.

EXT.P4: PHOTOCOPY OF THE O.P. NO. 2348/2005 FILED BEFORE THE FAMILY COURT, NEDUMANGAD.

EXT.P5: PHOTOCOPY OF THE ORDER DATED 28.02.2006 IN O.P. 2348/2005 BY THE FAMILY COURT, NEDUMANGAD.

/True Copy/

P.A to Judge.

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ

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W.P.(C) NO. 17711 OF 2006

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Dated this the 16th day of July, 2007.

JUDGMENT

Kurian Joseph,J

The writ petition is filed with the following prayers:

i. call for the records leading to Exhibit P5 order and issue a writ of certiorari or any appropriate writ, order or direction quashing the same;

ii. declare that the Family Court, Nedumangad, does not have jurisdiction to entertain O.P. No. 2348 of 2005 filed by the first and second respondents and hence no reliefs can be granted to the 1st and 2nd respondents in the same.

2. The petitioner has essentially raised a question of jurisdiction. It is pointed out by the learned counsel for the respondent that the said question was never raised before the Family Court. Having heard the counsel on both sides, we are of the view that the petitioner shall be given an opportunity to raise the issue of jurisdiction before the Family Court itself as a preliminary issue. The writ petition is hence disposed of as follows:

3. It will be open to the petitioner to file a petition before the Family Court to decide the question of jurisdiction as a preliminary issue within a period of one month from today. In the event of the

petitioner filing such a petition, the Family Court shall consider the issue and pass reasoned orders in the matter within another six months. The interim order passed by this Court on 14.07.2006 will continue till such time.

KURIAN JOSEPH, JUDGE.

T.R. RAMACHANDRAN NAIR, JUDGE.

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